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PRIVILEGE OF ACCUSED AGAINST CORPORAL EXAMINATION. — An illustration of the tenderness for the accused shown by the courts of to-day, is furnished in a recent Iowa decision. Testimony of physicians who had made a compulsory physical examination of a prisoner charged with rape was held inadmissible on the ground of privilege. *State v. Height*, 91 N. W. 935. The limits of the rule that the accused may not be compelled to give evidence tending to incriminate himself must be determined largely by the reasons on which the rule is based. Two distinct grounds have been suggested, that of mercy toward the prisoner, and that of the unreliability of evidence thus obtained. On the latter ground, it is urged with much force that if the accused himself be compelled to take the witness stand, his testimony will be untrustworthy, being given under bias; and further, that a skillful cross-examination may entrap him into apparent admissions and confessions which may mislead the jury. This reasoning obviously does not apply to cases of search or inspection or exhibition of the person, in which the reliability of the evidence depends on others than the accused. The other ground, however, that of mercy, while not a weighty consideration in the administration of the law at the period when the privilege originated, is perhaps the strongest element in its support to-day. From this point of view the question is mainly as to the extent to which the guilty should be shielded. The innocent do not need to claim privilege in these cases, and their inconvenience will be slight. See 5 HARV. L. REV. 71. Since the purpose of the trial is to secure justice, the demands of mercy are surely satisfied by the exemption of the accused from testifying by word of mouth or in writing, and any further concession is unwise.

It is well settled that the privilege will not be granted when the prisoner in court is asked to rise or to uncover his face for purposes of identification. *State v. Reasby*, 100 Ia. 231; *State v. Prudhomme*, 25 La Ann. 522. But the weight of authority is probably that he need not submit to a much more extended inspection. *Day v. State*, 63 Ga. 667; *People v. McCoy*, 45 How. Prac. (N. Y.) 216; *contra*, *Walker v. State*, 7 Tex. App. 245; *State v. Ah Chuey*, 14 Nev. 79. There seems no valid distinction between compelling the prisoner to uncover his face and to uncover his tattooed arm for identification, nor, aside from the requirements of decency, between inspection in and inspection out of the court room. It is true that one who is accused of crime has not lost his personal rights, and he should be protected against public indignity in the court room and inhuman treatment outside. But not even an examination by physicians is so degrading that protection against it is necessary at the possible cost of justice. Subject to the exception just mentioned, it seems clear that a prisoner should not be allowed to conceal the evidence of his guilt under the plea of privilege. Justice and common sense should control mercy.